



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SPECIAL SESSION—BERKELEY
AND SAN FRANCISCO SESSION
NOVEMBER 3 and 4, 2009**

(FIRST AMENDED)

The following cases are placed upon the calendar of the Supreme Court for oral argument at its Special Session at University of California, Berkeley Law, Boalt Hall, Berkeley, California, on November 3, 2009, and at its courtroom in the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on November 4, 2009.

**BERKELEY SPECIAL SESSION
TUESDAY, NOVEMBER 3, 2009—9:00 A.M.
*Opening Remarks: Historic Special Session***

- | | | |
|-----|---------|---|
| (1) | S158528 | People v. Robinson (Paul Eugene) |
| (2) | S164830 | People v. Kelly (Patrick K.) (and related habeas corpus matter) |

1:30 P.M.

- | | | |
|-----|---------|--|
| (3) | S156933 | In re J. (E.) on Habeas Corpus; S157631 In re P. (S.) on Habeas Corpus; S157633 In re S. (J.) on Habeas Corpus; and S157634 In re T. (K.) on Habeas Corpus (<i>consolidated cases</i>) |
| (4) | S162823 | People v. McKee (Richard) |
| (5) | S163453 | People v. Lessie (Tony) |

**SAN FRANCISCO SESSION
WEDNESDAY, NOVEMBER 4, 2009—9:00 A.M.**

- | | | |
|-----|---------|---|
| (6) | S157341 | Lexin et al. v. Superior Court of San Diego County (The People, Real Party in Interest) |
| (7) | S150984 | People v. Freeman (Marilyn) |
| (8) | S165861 | Sunset Sky Ranch Pilots Assn. et al. v. County of Sacramento et al. (John M. Taylor et al., Real Parties in Interest) |

1:30 P.M.

- | | | |
|------|---------|---|
| (9) | S156598 | Brown, Winfield & Canzoneri, Inc. v. Superior Court of Los Angeles County (Great American Ins. Co., Real Party in Interest) |
| (10) | S162313 | Chavez v. City of Los Angeles et al. |
| (11) | S074624 | People v. Martinez, Jr. (Tommy Jesse) [Automatic Appeal] |

GEORGE

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SPECIAL SESSION—BERKELEY
AND SAN FRANCISCO SESSION
NOVEMBER 3 and 4, 2009**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**BERKELEY SPECIAL SESSION
TUESDAY, NOVEMBER 3, 2009—9:00 A.M.
*Opening Remarks: Historic Special Session***

(1) *People v. Robinson (Paul Eugene), S158528*

#08-30 *People v. Robinson (Paul Eugene), S158528.* (C044703; 156 Cal.App.4th 508; Superior Court of Sacramento County; 00F06871.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited the issues to be briefed and argued to the following: (1) Does the issuance of a “John Doe” complaint and arrest warrant timely commence a criminal action and thereby satisfy the statute of limitations? (2) Does an unknown suspect’s DNA profile satisfy the “particularity” requirement for an arrest warrant? (3) What remedy is there, if any, for the unlawful collection of genetic material under the DNA and Forensic Identification Database and Data Bank Act of 1998 (Pen. Code, § 295 et seq.)?

(2) *People v. Kelly (Patrick K.) (and related habeas corpus matter), S164830*

#08-129 *People v. Kelly (Patrick K.) (and related habeas corpus matter), S164830.* (B195624; 163 Cal.App.4th 124; Superior Court of Los Angeles County; VA092724.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Does Health and Safety Code section 11362.77 violate the California Constitution by amending the Compassionate Use Act without voter approval? (2) Were there alternative remedies to invalidating section 11362.77 in its entirety?

1:30 P.M.

(3) *In re J. (E.) on Habeas Corpus S156933; In re P. (S.) on Habeas Corpus S157631; In re S. (J.) on Habeas Corpus S157633; and In re T. (K.) on Habeas Corpus, S157634 (consolidated cases)*

#07-457, In re J. (E.) on Habeas Corpus, S156933 (original proceeding); #07-458 In re P. (S.) on Habeas Corpus, S157631 (original proceeding); #07-459 In re S. (J.) on Habeas Corpus, S157633 (original proceeding); #07-460 In re T. (K.) on Habeas Corpus, S157634 (original proceeding). In each of these four matters, the court issued an order to show cause why the petitioner is not entitled to relief from the residency restrictions imposed by Penal Code section 3003.5 on persons required to register as sex offenders, on the ground the statute violates the ex post facto clauses of the state and federal Constitutions, has been impermissibly retroactively applied, constitutes an unreasonable parole condition, impinges on the petitioner's substantive due process rights, and is unconstitutionally vague.

(4) *People v. McKee (Richard), S162823*

#08-107 People v. McKee (Richard), S162823. (D050554; 160 Cal.App.4th 1517; Superior Court of San Diego County; MH97752.) Petition for review after the Court of Appeal affirmed an order of commitment as a sexually violent predator. This case includes the following issues: (1) Was defendant denied due process when he was committed under the Sexually Violent Predator Act, as amended by Proposition 83 in 2006, because the amended act permits commitments for an indeterminate term and, in hearings subsequent to the initial commitment hearing, places the burden on the defendant to prove he is no longer a danger to society? (2) Did defendant's commitment under the amended act violate the prohibition against ex post facto laws? (3) Did the commitment violate defendant's right to equal protection?

(5) *People v. Lessie (Tony), S163453*

#08-119 People v. Lessie (Tony), S163453. (D050019; 161 Cal.App.4th 1085; Superior Court of San Diego County; SCN200740.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Is a minor's request during police interrogation to speak to a parent an invocation of the privilege against self-incrimination that renders statements made after the request inadmissible?

SAN FRANCISCO SESSION
WEDNESDAY, NOVEMBER 4, 2009—9:00 A.M.

(6) *Lexin et al. v. Superior Court of San Diego County (The People, Real Party in Interest)*, S157341

#07-445 Lexin et al. v. Superior Court of San Diego County (The People, Real Party in Interest), S157341. (D049251; 154 Cal.App.4th 1425; Superior Court of San Diego County; SCD190930.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Did petitioners' service on the Board of the San Diego Retirement System, as it related to an increase in pension benefits for members of the system, violate the conflict of interest provisions of Government Code section 1090 and subject them to criminal prosecution, or did the non-interest exemption of Government Code section 1091.5, subdivision (a)(9), apply?

(7) *People v. Freeman (Marilyn)*, S150984

#07-201 People v. Freeman (Marilyn), S150984. (D046394, D048111, D049238; 147 Cal.App.4th 517; Superior Court of San Diego County; SCD171601.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses and denied petitions for writ of habeas corpus. This case presents the following issue: Was defendant's due process right to a fair trial violated based on an appearance of bias when the trial judge initially recused himself but then accepted reassignment after the basis for the initial disqualification proved to be unfounded?

(8) *Sunset Sky Ranch Pilots Assn. et al. v. County of Sacramento et al. (John M. Taylor et al., Real Parties in Interest)*, S165861

#08-149 Sunset Sky Ranch Pilots Assn. et al. v. County of Sacramento et al. (John M. Taylor et al., Real Parties in Interest), S165861. (C055224; 164 Cal.App.4th 671; Superior Court of Sacramento County; 06CS00265.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Is a county's denial of an application to renew a conditional use permit a "project" subject to the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.)? (2) If the denial of such an application is a project, is it nonetheless exempt from the act?

1:30 P.M.

(9) *Brown, Winfield & Canzoneri, Inc. v. Superior Court of Los Angeles County (Great American Ins. Co., Real Party in Interest)*, S156598

#07-455 Brown, Winfield & Canzoneri, Inc. v. Superior Court of Los Angeles County (Great American Ins. Co., Real Party in Interest), S156598. (B201396; nonpublished order; Superior Court of Los Angeles County; BC331601.) Petition for review after the Court of Appeal issued an order regarding a petition for peremptory writ of mandate. The court limited review to the following issues: (1) May a Court of Appeal issue a “suggestive *Palma* notice” (see *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171) — that is, a notice that discusses the merits of a writ petition with citation to authority, determines that the trial court ruling was “erroneous,” and gives the trial court the “power and jurisdiction” to change its order? (2) If such an order is proper, absent exceptional circumstances, may it be issued without giving the real party in interest an opportunity to file opposition?

(10) *Chavez v. City of Los Angeles et al.*, S162313

#08-78 Chavez v. City of Los Angeles et al., S162313. (B192375; 160 Cal.App.4th 410; Superior Court of Los Angeles County; BC324514.) Petition for review after the Court of Appeal reversed an order denying attorney fees in a civil action. This case presents the following issue: Does Code of Civil Procedure section 1033 permit a trial court to deny Government Code section 12965 attorney fees to the prevailing plaintiff in an action under the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) if the judgment obtained in a court with jurisdiction over “unlimited” civil cases (see Code Civ. Proc., § 88) could have been rendered in a court with jurisdiction over “limited” civil cases (see Code Civ. Proc., § 85, subd. (a))?

(11) *People v. Martinez Jr. (Tommy Jesse)*, S074624 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.